

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 8, 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
Room: 8-B201
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Genachowski:

Thank you for your letter indicating that you plan to strike from the Code of Federal Regulations the Fairness Doctrine and related provisions, as we requested. We are heartened by your continued opposition to the Fairness Doctrine because of its chilling effects on free speech and the free flow of ideas. When precisely will you eliminate the Fairness Doctrine and related regulations at 47 C.F.R. §§ 73.1910, 76.209, 76.1612 and 76.1613? What is involved? Do you have the support of your fellow commissioners? How long will it take?

We are also pleased by your commitment in the letter to abide by President Obama's Executive Order 13563 on Improving Regulation and Regulatory Review, even though it does not bind independent agencies such as the FCC. A thorough review of the Commission's regulations and the repeal of outdated rules will unleash private sector investment, spur growth and create jobs for the American people. Unfortunately, the path forward remains unclear. We have yet to see a plan from your agency on how it will implement the January 2011 order and begin eliminating other outmoded and economically harmful regulations. According to testimony before this committee last week by Cass R. Sunstein, Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget, the only independent agency to have submitted a plan is the National Labor Relations Board, and its plan amounted to a single page. When will you submit a plan to Administrator Sunstein? When will you begin eliminating other antiquated rules that stifle investment and harm innovation? What concrete steps will you take to reduce the burden on small businesses, who are today's primary engine for jobs growth? How many jobs will you create through your deregulatory efforts? Unnecessarily burdensome regulations are never appropriate, but eliminating them quickly is all the more important in light of the continued fiscal distress we find our country in.

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MB
Pol. Adv.
Fairness Doctrine

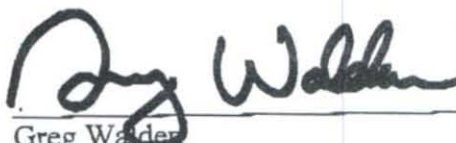
Letter to the Honorable Julius Genachowski

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Thank you also for highlighting statutory provisions that you believe have become moot over time and that may be appropriate for repeal or revision. We will consider yours and other suggestions for possible "clean up" legislation addressing just these types of issues.

Please respond to the questions in this letter by close of business Friday, June 10, 2011. If you have any questions, don't hesitate to contact our Committee staff at (202) 225-2927.

Sincerely,


Fred Upton
Chairman
Greg Walden
Chairman, Subcommittee on Communications
and Technology

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna G. Eshoo, Ranking Member
Subcommittee on Communications and Technology

Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn



***Committee on Energy and Commerce
Republican Office***

U.S. House of Representatives

2125 Rayburn House Office Building

Washington, D.C. 20515

Phone: (202) 225-2927

Fax: (202) 225-1919

To: Ms. Terri Glaze, Director of Legislative Affairs, Federal Communications Commission for
Chairman Julius Genachowski, Federal Communications Commission

From: Rep. Fred Upton, Chairman, Committee on Energy and Commerce

Fax: (202) 418-7812

Date: June 8, 2011

Phone: 202.418.1000

Pages: 2 (Including cover)

Notes: Detail request letter

copies to
TB, EL, RK, Josh, al, GG, CL



FEDERAL COMMUNICATIONS COMMISSION

June 24, 2011

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

This responds to your letter of June 8, 2011. The effort that I initiated two years ago to identify and eliminate outmoded FCC rules that unnecessarily burden business, stifle investment and innovation, or confuse consumers and licensees, has borne fruit. As I testified during the Subcommittee's May 13th hearing, the FCC already has eliminated 49 outdated regulations and five sets of unnecessary data collections, and we have identified an additional 20 data collections for possible elimination. These reform efforts build on suggestions made by each of my colleagues on the Commission, and I appreciate their work and support.

With regard to the Fairness Doctrine and related obsolete provisions of the Commission's rules, the Commission's General Counsel has advised me that the FCC staff can eliminate these rules (which no longer have legal effect) on existing delegated authority. For efficiency, the staff is working on this together with the elimination of other outdated rules. I expect that the staff will complete action on this package of obsolete rule deletions, including the Fairness Doctrine, in August. Again, with respect to the Fairness Doctrine, this is merely a non-substantive, conforming change to the rules: The Fairness Doctrine is not enforced by the Commission and has not been applied for more than 20 years. Indeed, it could not be enforced by the Commission absent a new rulemaking proceeding, which I have no intention of commencing. With regard to my fellow Commissioners' views on the Fairness Doctrine, those views would best be stated by the Commissioners themselves.

You also asked more generally about the FCC's plan for retrospective review of its regulations consistent with Executive Order 13563. As you note, although the Executive Order does not apply to independent agencies such as the FCC, immediately after the President promulgated the Order, I directed Agency staff to comply with its spirit. The FCC has been undertaking the kind of regulatory reform called for in the Executive Order from my very first week on the job. Two of my first acts as Chairman were to name a highly respected senior career professional, Mary Beth Richards, as Special Counsel for FCC Reform, to create a reform task force, including Ms. Richards as well as our Managing Director and General Counsel. I charged Ms. Richards and the task force with identifying and eliminating outdated rules and other

unjustified burdens on industry or the public, as well as identifying other steps to improve how the FCC functions.

A purpose of this team was to reinvigorate, focus, and augment the retrospective regulatory reviews that the FCC conducts pursuant to statute. Under section 11 of the Communications Act, the FCC reviews all of its telecommunications regulations every two years and, under section 202(h) of the 1996 Act, it reviews the media ownership rules every four years. In addition, pursuant to section 610 of the Regulatory Flexibility Act, the Commission reviews regulations that may have a significant economic impact on small entities no later than 10 years after their promulgation. Section 10 of the Communications Act also broadly permits regulatees to petition for forbearance of FCC rules believed to be unwarranted – and the Commission has granted all or part of the relief sought in most such petitions.

In addition to these statutory provisions requiring retrospective reviews, at my direction the Agency launched a data initiative pursuant to which each of its Bureaus was tasked with identifying obsolete or overly burdensome data collections for potential elimination. At my initiative, the Agency also created a new Technical Advisory Committee consisting of outside experts, including a number of private sector technologists and investors, charged with identifying additional ways, including rules changes, to lower the cost of investment in telecommunications infrastructure and, thereby, spur innovation and job creation. Agency staff are also working on the prospective aspects of Executive Order 13563, in particular its directive that all major new rules be accompanied by an analysis of costs and benefits. The FCC already adheres to this practice and has been consulting with OIRA with respect to best practices.

This regulatory review process has already achieved success. As noted, the agency during my tenure has repealed 49 regulations (more than twice the number of new rules promulgated) as well as five data collections, with 20 more identified and targeted). More obsolete rules, including the old Fairness Doctrine rules that you mention, are in the pipeline for elimination. The Technical Advisory Committee has produced its first set of recommendations. And the work continues.

In sum, our plan for adhering to the spirit of Executive Order 13563 is to continue along the regulatory reform track we are on – thoughtfully and diligently conducting our statutory reviews of existing rules, augmenting those reviews to include data collections and other rules, working internally and consulting with OIRA and other experts on how best to analyze the costs and benefits of proposed rules, and seeking input from all quarters on additional ways of making the Commission a model of excellence in government.

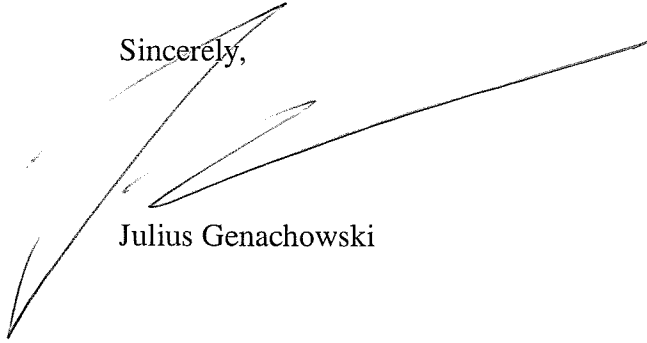
I am particularly pleased that, with the departure of Mary Beth Richards, these efforts are now being led by Ruth Milkman, previously the Chief of the Commission's Wireless Telecommunications Bureau, who became Special Counsel to the Chairman for Innovation in Government as of June 20, 2011. I am confident that Ms. Milkman and her team will continue to

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develop proposals for regulatory, statutory and procedural reforms to promote private investment, innovation, competition, job creation, and consumer benefits.

I appreciate your interest in this matter.

Sincerely,



Julius Genachowski



FEDERAL COMMUNICATIONS COMMISSION

June 24, 2011

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CHAIRMAN

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Chairman
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Committee on Energy and Commerce
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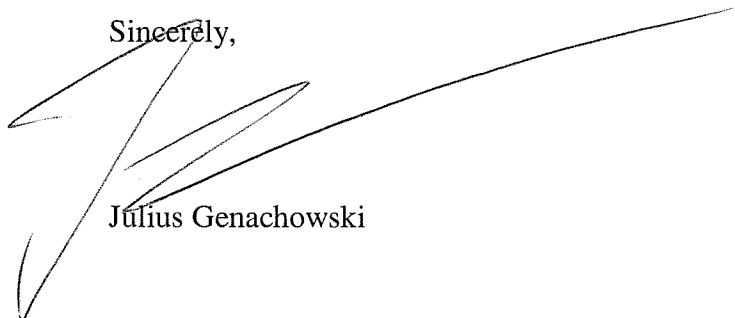
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